

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD14-037
LOCATION OF PROPERTY	5195 Cherry Avenue
ZONING DISTRICT	A(PD) Planned Development
GENERAL PLAN DESIGNATION	Regional Commercial
PROPOSED USE	Planned Development Permit to allow the construction of a new 152,644 square foot commercial building (Bass Pro) with 3,000 square feet of outdoor sales area on a 44.30 gross acre site
ENVIRONMENTAL STATUS	Reuse of the Almaden Ranch Retail Center EIR
OWNER/APPLICANT	Arcadia Development Company P.O. Box 5368 San Jose, California. 95150

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Site Description and Surrounding Uses.** The subject site is located on the southeast corner of Almaden Expressway and Chynoweth Avenue. The land uses surrounding the site include a neighborhood shopping center with a grocery store to the north, the Guadalupe River to the northeast with single-family detached residences being located across the Guadalupe River, the Santa Clara Valley Water District percolation ponds to the east, an elevated portion of State Highway Route 85 to the south, and a variety of large and small retail and commercial uses to the west.
2. **Project Description.** The Almaden Ranch Retail Center Rezoning, File Number PDC14-001 (Ordinance No. 29397) was adopted on April 22, 2014 to allow increased height from 50 feet to 80 feet within the footprint of the largest previously approved commercial building (Building A1) on the site. The previous Planned Development Zoning was effectuated by a Planned Development Permit (File No. PD11-024) and permitted the development of up to 400,000 square feet of commercial uses. A subsequent Permit Adjustment (File No. AD13-1363) modified the approved Site Plan, including building locations, parking layout, and outdoor sales area and the architecture, landscaping and details. The subject Planned Development Permit serves to permit architecture and height of a new 152,644 square foot commercial building with an additional 3,000 square feet of outdoor sales area.
3. **General Plan.** The subject site has an Envision San Jose 2040 General Plan Land Use/Transportation Diagram designation of Regional Commercial. Large commercial centers that draw customers from the greater regional area are appropriate in this designation.

4. **Zoning Conformance.** The proposed project conforms to the approved General Development Plan of the Planned Development Zoning.
5. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties. A Final Subsequent Environmental Impact Report, "Almaden Ranch Retail Center", was prepared for this project and certified on March 20, 2012, pursuant to the provisions of CEQA (Resolution No. 76168). The project includes mitigation measures that reduce all potentially significant impacts to a less than significant level with the exception of air quality and greenhouse gas emissions which were determined to be significant unavoidable impacts.
6. **Planned Development Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Planned Development Permit.
 - a. The planned development permit, as issued, furthers the policies of the general plan in that the subject site has an Envision San Jose 2040 General Plan Land Use/Transportation Diagram designation of Regional Commercial. The rezoning under File No. PDC14-001 was found consistent with the site's San Jose 2040 General Plan Land Use/Transportation Diagram land use designation of Regional Commercial in that large commercial centers that draw customers from the greater regional area are appropriate in this designation. The subject site is located in an existing larger commercial area and the addition of a regional commercial shopping center on the subject site will further contribute to the fiscal and economic health of the City.
 - b. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property in that it would effectuate the approved Planned Development Zoning (File No. PDC14-001).
 - c. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious in that the Planned Development Zoning and its development standards were found consistent with the Commercial Design Guidelines and Riparian Corridor Policy Study. This permit is in conformance with the zonings development standards.
 - d. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties in that an Environmental Impact Report, "Almaden Ranch Retail Center", was prepared for this project and certified on March 20, 2012, pursuant to the provisions of CEQA (Resolution No. 76168).

In accordance with the findings set forth above, a Planned Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "Almaden Ranch San Jose, California for Bass Pro Shops Planned Development Permit Submittal" dated July 22, 2014 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
7. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.

8. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.
9. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
10. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
12. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
13. **Directory.** A lighted directory showing addresses and locations of all buildings on site shall be provided at the main entrance of the site.
14. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
15. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
16. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
17. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
18. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
19. **Perimeter Fencing.** Fence height and materials shall be provided as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
20. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
21. **Mechanical Equipment.** No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise levels from such equipment will not exceed 55 dBA at the residential property line. All roof mounted mechanical equipment shall be screened from view.
22. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.

23. **Green Building Requirements for Tier 2 Non Residential Development (≥25,000 square feet).** This development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the applicant shall pay a Green Building Refundable Deposit in the amount of \$30,000 applicable to the gross square footage of said buildings which are approved through this permit. The project must receive the minimum green building certification of LEED Silver. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
24. **Window Glazing.** Unless otherwise indicated on the approved plan, all windows shall consist of a transparent glass.
25. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
26. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
27. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
28. **Fence Standards.** Existing perimeter fences shall be repaired and maintained by the developer and/or property owner in accordance with the standards established on the approved plan set.
29. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development.
- a. **Biological Resources.**
- i. The following tree protection measures, as well as those contained in the San Jose Municipal Code Section 13.32.130, shall also be included in the project in order to protect trees to be retained during construction:
- Pre-Construction Treatments
- 1) The applicant will retain a consulting arborist. The construction superintendent will meet with the consulting arborist before beginning work to discuss work procedures and tree protection.
 - 2) Fence all trees to be retained to completely enclose the tree protection zone prior to demolition, grubbing or grading. Fences will be 6-foot chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction are completed.

- 3) Prune trees to be preserved to clean the crown and to provide clearance. All pruning will be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

During Construction

- 4) No grading, construction, demolition or other work will occur within the tree protection zone. Any modifications must be approved and monitored by the consulting arborist.
 - 5) Any root pruning required for construction purposes will receive the prior approval of, and be supervised by, the consulting arborist.
 - 6) Supplemental irrigation will be applied as determined by the consulting arborist.
 - 7) If injury should occur to any tree during construction, it will be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.
 - 8) No excess soil, chemicals debris, equipment or other materials will be dumped or stored within the tree protection zone.
 - 9) Any additional tree pruning needed for clearance during construction must be performed or supervised by an Arborist and not by construction personnel.
 - 10) As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees will be designed to withstand differential displacement.
- ii. Prior to issuance of a grading permit, a City approved Erosion Control Plan shall be developed with such measures as: 1) the timing of grading activities during the dry months, 2) temporary and permanent planting of exposed soil, 3) temporary check dams, 4) temporary sediment basins and traps, and 5) temporary silt fences. The provisions of the Erosion Control Plan shall be implemented to the satisfaction of the Director of Planning, Building and Code Enforcement.
 - iii. If possible, construction should be scheduled between September 1 and January 31 (inclusive) to avoid the nesting season. If this is not possible, pre-construction surveys for nesting white-tailed kite, loggerhead shrike, California yellow warbler, non-listed raptors, and other migratory breeding birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation. Between February and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for nests. If an active nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the California Department of Fish and Game, designate a construction-free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified ornithologist has determined that the young birds have fledged. The applicant shall submit a report to the Director of Planning, Building and Code Enforcement indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of any grading or building permit.

- iv. A detailed bat survey shall be conducted by a qualified bat biologist to determine if bats are roosting or breeding in the onsite buildings prior to demolition. A qualified bat biologist shall look for individuals, guano, staining, and/or vocalization by direct observation and potential waiting for nighttime emergence. The survey shall be conducted during the time of year when bats are active, between April 1 and September 15. If demolition is planned within this timeframe, the survey shall be conducted within 30 days of demolition. An initial survey could be conducted to provide early warning if bats are present, but a follow-up survey will be necessary within 30 days. If demolition is planned outside of this timeframe (September 16 through March 31), the survey shall be conducted in September prior to demolition. If no bats are observed to be roosting or breeding in these structures, then no further action would be required, and demolition can proceed.
- v. If a non-breeding bat colony is found in the buildings to be demolished, the individuals will be humanely evicted via the partial dismantlement of the buildings prior to demolition under the direction of a qualified bat biologist to ensure that no harm or "take" would occur to any bats as a result of demolition activities. If a maternity colony is detected in the buildings, then a construction-free buffer shall be established around the structure and remain in place until it has been determined by a qualified bat biologist that the nursery is no longer active. Demolition will preferably be done between March 1 and April 15 or August 15 and October 15 to avoid interfering with an active nursery.
- vi. A biologist report outlining the results of pre-construction bat surveys and any recommended buffer zones or other mitigation shall be submitted to the Director of Planning, Building and Code Enforcement and shall be approved to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of any grading, building, or tree removal permit.
- vii. A pre-construction survey for burrowing owls shall be conducted by a qualified biologist within 30 days prior to any ground disturbance activities.
- viii. A buffer zone of a minimum of 250 feet shall be established around active burrowing owl nesting sites if nesting burrowing owls are discovered during pre-construction surveys conducted between February 1st and August 31st, and no disturbance shall occur within the buffer zone until a qualified biologist has determined that the young birds have fledged; and at least 6.5 acres of foraging habitat contiguous with the occupied burrow site shall be protected for each pair of breeding burrowing owls (with or without dependent young) or single unpaired resident bird.
- ix. No disturbance shall occur within 160 feet of occupied burrows if over-wintering burrowing owls are discovered using the site during the non-breeding season (September 1st through January 31st); and at least 6.5 acres of foraging habitat contiguous with the occupied burrow site shall be protected for each pair of burrowing owls or single unpaired resident bird.
- x. If any burrowing owls are discovered using the site during the pre-construction surveys during the non-breeding season, a burrowing owl relocation plan to be approved by the California Department of Fish and Game shall be developed and implemented, including passive measures such as installation of one-way doors in active burrows for up to four days, careful excavation of all active burrows after four days to ensure no owls remain underground, and filling all burrows in the construction area to prevent owls from using them. This plan must provide for the owls' relocation to nearby lands possessing available nesting and foraging habitat.

- xi. A biologist report outlining the results of the pre-construction burrowing owl surveys and any recommended buffer zones or other mitigation shall be submitted to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of a grading or building permit.

b. Cultural Resources

- i. Should evidence of unknown prehistoric (middens that are darker than surrounding soils containing evidence of fire – ash, charcoal, fire affected rock or earth; concentrations of stone, bone or freshwater shellfish; artifacts of these materials; and burials, both animal and human) and/or historic cultural resources be discovered during grading, excavation, trenching or construction, work within 50 feet of the find shall be stopped to allow adequate time for evaluation and mitigation by a qualified professional archaeologist who shall be called in to make an evaluation; the material shall be evaluated; and if significant, a mitigation program including collection and analysis of the materials prior to the resumption of grading, preparation of a report and curation of the materials at a recognized storage facility shall be developed and implemented to the satisfaction of the Director of Planning, Building and Code Enforcement, who will receive a copy of the report.
- ii. Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California: In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified by the developer or contractor and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to State law, then the landowner shall reinter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

c. Geology and Soils

- i. Pre-moisturizing programs for the overall site, the foundation trenches, and soil subgrades for concrete slabs-on-grade shall be utilized during construction, if required.
- ii. Drainage shall be controlled away from all structures and pavements.
- iii. A City-approved Erosion Control Plan shall be developed prior to approval of a grading permit or Public Works clearance with such measures as: 1) the timing of grading activities during the dry months, if feasible; 2) temporary and permanent planting of exposed soil; 3) temporary check dams; 4) temporary sediment basins and traps; and/or 5) temporary silt fences. The provisions of the Erosion Control Plan shall be implemented to the satisfaction of the Director of Planning, Building and Code Enforcement.
- iv. The proposed structures on the site shall be designed and constructed in conformance with the Uniform Building Code Guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking on the site.

- v. A report addressing the potential hazard of liquefaction shall be submitted to, and reviewed and approved by, the City Geologist prior to issuance of a grading permit or Public Works clearance. The investigation shall be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC") report.
 - vi. Ground improvement measures such as removal and re-compaction of low-density soils, removal of excess groundwater, in-situ ground densification, and/or other types of ground improvement; or special foundations such as deep piles or reinforcement of shallow foundations (post-tensioned mats or grid footings) shall be utilized to reduce liquefaction and/or lateral spreading, as warranted.
- d. **Green House Gasses.** The following mitigation measures will be incorporated into the project:
- i. Use cool roof materials (albedo ≥ 30)
 - ii. Install solar panels on select commercial building(s).
- e. **Hydrology and Water Quality**
- i. Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit, to the satisfaction of the Director of Public Works, as follows:
 - 1) The applicant will develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities; and
 - 2) The applicant will file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).
 - ii. The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities.
 - iii. The project applicant shall comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation and with the City of San Jose Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:
 - 1) Restriction of grading to the dry season (April 15 through October 15) or meet City requirements for grading during the rainy season;
 - 2) Utilize onsite sediment control BMPs to retain sediment on the project site;
 - 3) Utilize stabilized construction entrances and/or wash racks;
 - 4) Implement damp street sweeping;
 - 5) Provide temporary cover of disturbed surfaces to help control erosion during construction; and
 - 6) Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

f. **Noise.**

- i. Windows shall have sound insulation ratings of STC 30 or higher, and walls shall be STC 50 or higher at buildings located within approximately 300 feet of the centerline of Almaden Expressway.
- ii. All buildings shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows and/or doors closed to control noise, and maintain an interior noise level of 45 dB DNL.
- iii. Prior to issuance of a building Permits, the developer shall retain a qualified acoustical consultant to check the building plans to ensure that interior noise levels can be sufficiently attenuated to 45 dBA DNL to the satisfaction of the Director of Planning, Building and Code Enforcement
- iv. Post-construction mechanical equipment shall conform to the City's General Plan limitation of 55 dBA DNL at residential property lines; and 60 dBA DNL at commercial property lines by utilizing measures such as equipment selection and location and, if necessary, equipment enclosures.

g. **Transportation/Traffic**

- i. The intersection of Almaden Expressway and Cherry Avenue shall be fully built out, including the addition of a fourth northbound through lane; the addition of a second southbound left-turn lane; the conversion of the eastbound and westbound approaches from permitted to protected left-turn phasing; the construction of the westbound approach to include two left-turn lanes, one through lane and one right-turn lane; and the provision of a separate eastbound through lane. (58.0 seconds of delay – Level E)
- ii. A fourth northbound through lane along the entire project frontage on Almaden Expressway shall be constructed to create a receiving lane for the westbound right-turn movement from the SR 85 northbound off-ramp, which would allow vehicles to make a right turn on red onto northbound Almaden Expressway; and the lanes on the SR 85 northbound off-ramp shall be reconfigured to provide one dedicated left-turn lane, one shared left-turn/through lane, and one dedicated right-turn lane. (69.9 seconds of delay – Level E) Implementation of this mitigation measure will meet the City of San Jose's Level of Service Policy; however, the intersection of Almaden Expressway and SR 85 (North) off ramp is under the jurisdiction of both the County of Santa Clara and CalTrans; therefore, any proposed improvements at this intersection off ramp will require review, approval and issuance of an Encroachment Permit from these jurisdictions.

30. **Discharge to 303d-Listed Waterbody.** The project will directly discharge stormwater runoff to a Clean Water Act section 303d-listed waterbody. Site design, source control, and/or treatment control measures included in the project's Stormwater Control Plan must ensure that post-development runoff from this project shall not exceed pre-development levels for such pollutants that are listed.

31. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, PD14-037, shall be printed on all construction plans submitted to the Building Division.
- b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).

- c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The project applicant shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
32. **Fire Flow.** Required fire flow for the site is calculated using CFC Appendix B, or as otherwise approved in writing by the Fire Chief. A 50% reduction in required fire flow may be authorized for sprinklered buildings containing light hazard occupancies. A 25% reduction in required fire flow may be authorized for sprinklered buildings containing ordinary hazard occupancies. No reduction is provided for unsprinklered or extra hazard occupancy buildings.
33. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by the Fire Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief. The number and distribution of fire hydrants shall be based on CFC Table C105.1 (no reduction allowed for fire flow requirement).
34. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
35. **General Fire Prevention Requirements.** The developer shall provide the following improvements:
- a. *Fire Sprinkler System.* Building(s) shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.
 - b. *Requirements for Trash Areas.* Outdoor covered areas and trash enclosures may require the sprinkler system to be extended to protect them.
 - c. *Fire Alarm System.* Building(s) shall be provided with an automatic fire alarm system as required by CFC 907.2 and 907.3.
 - d. *Management Association Responsibilities for Life & Safety Systems.* The developer/owner shall create and maintain a Management Association which will be responsible for the fire/life safety systems inspections per Title 19 and access to the systems if applicable.
 - e. *Construction Fire Protection Plan.* A “Construction Fire Protection Plan” for approval by San Jose Building and Fire Departments is required prior to starting construction for wood framing projects consisting of 15 or more dwelling units or construction exceeding a total of 50,000 square feet.

36. Revocation, Suspension, Modification. This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **3rd day of September, 2014.**

Harry Freitas, Director
Planning, Building, and Code Enforcement

Deputy